

II. REMARKS

Respectfully, and generally for the reasons set forth below, the objections and rejections and each ground therefore are traversed.

Claims 9, 41, 73, 105, and 113 have been objected to. The Examiner contends that these claims are of improper dependent form for failing to further limit the subject matter of a previous claim. As per claims 9 and 133, the Examiner contends that the parent claims contain only the method for acceptance of the gift, and that there is no option for refusal.

In response, the objection is respectfully traversed. The objection is premised on an incorrect interpretation of the claims. The parent claims are inclusive (i.e., including), and therefore the claims do not “contain *only* the method for acceptance of the gift” (italics added) as contended in the Office Action. The dependent claims under objection add further limitation the parent claims, and therefore the objection is improper.

Claims 1-2, 4, 9, 11-14, 16, 19-21, 28-29, 30-34, 36-41, 43-50, 62-66, 68-73, 75-82, 94-98, 100-105, 107-117, and 124-125 have been rejected pursuant to 35 U.S.C. Sec. 102 for reasons set forth in the Office Action. The Examiner contends that these claims are anticipated by Bezos for reasons set forth more particularly in the Office Action.

In response, the rejection is respectfully traversed for the reasons set forth below.

A. Claims 1-2, 4, 9, 11-14, 16, 30-34, 36-41, 43-50, 62-66, 68-73, 75-82, 94-98, 100-105, and 107-114

1. No Disclosure of Claim Requirement: determining, over the Internet, whether said second party would accept the gift

Bezos does not disclose the claimed determining, over the Internet, whether said second party would accept the gift. Bezos may disclose obtaining sufficient delivery information, but Bezos does not mention the aforesaid claim requirement. Therefore, Bezos is

insufficient evidence of anticipation.

2. No Disclosure of Claim Requirement: wherein the method is devoid of revealing a non-pseudonymous name...

Bezos does not disclose the claimed method...devoid of revealing. The rejection relies upon in paragraph 0022, but Bezos does not disclose this claim requirement there or elsewhere. The Examiner attempts to see circumstances under which Bezos may not involve revealing in a particular gift giving. But even if such circumstances did not involve the revealing (which Applicant disputes), there is no evidence in Bezos that the revealing would not otherwise occur. Regardless of the Examiner's contended circumstances, Bezos does not disclose that the method is devoid of revealing... Bezos is therefore is insufficient evidence of anticipation.

3. Improper §102 Rejection

The Office Action constitutes an improper attempt to change the PTO's statutory burden of showing anticipation. Bezos does not state that it is devoid as claimed herein. The Examiner has not contended inherency, nor is it believed that such a contention is appropriate. Bezos's silence regarding the devoid claim requirement is not the same as an affirmative teaching of a devoid method. Therefore, the rejection seeks to require Applicant to prove what was not in Bezos, when the burden is on the PTO to show a prior art affirmative teaching of a devoid method.

Pursuant to Sec. 102, it is improper to require the Applicant to prove what was absent in the Bezos method, and the rejection is improper for seeking to shift the PTO's statutory burden to the Applicant.

4. Summary

In sum, the PTO has not met its burden to prove that Bezos discloses every claim requirement, and thus the evidence is insufficient to withhold a patent with the aforesaid claims pursuant to Sec. 102.

B. Claims 19-21, 28-29, and 115-117

1. No Disclosure of Claim Requirement: web site enabling..., wherein the enabling is devoid of revealing...

With respect to claim 19 and its rejected dependents, the reasons for the rejection do not appear to correspond to the claim requirements, and are therefore traversed. Further, pursuant to Sec. 132, the Examiner is requested to explain how Bezos teaches a web site enabling..., wherein the enabling is devoid is the same as a hypothetical unreturned telephone call. A telephone volley would not seem to constitute a web site enabling etc.

As per the discussion of claim 1, with regard to claim 19 and its rejected dependent claims, again: Bezos does not mention devoid of revealing.... Applicant respectfully contends that silence in the cited art regarding a claim requirement is not anticipatory evidence of the requirement, and the Office Action impermissibly shifts the PTO's burden to establish unpatentability to the Applicant.

C. Claims 15, 17, and 18

1. Improper Reason to Combine

Claims 15, 17, and 18 have been rejected pursuant to 35 U.S.C. Sec. 103. The Examiner contends that these claims are obvious over Bezos, in view of Walker (claim 15) and Oneda (claims 17-18).

Applicant maintains that a proper reason to combine has not been provided, and on this point, the Examiner is requested pursuant to Sec. 132 to explain the combination in view of the Board's reasoning in Ex parte Massey of record. The Examiner has not responded to this matter set out at page 28 of the Amendment and Response filed August 15, 2005. Given the disparity of problems being addressed in the cited art and differing solutions proposed by them, any attempt to combine them could only come from Applicant's claims.

III. Conclusion

The Examiner is invited to contact the undersigned at the telephone number set out below if it can in any way expedite or facilitate issuance of a patent on the application.

The application is believed to be in condition for allowance, and favorable action is respectfully requested. Please direct all correspondence to the undersigned at the address given below.

The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235. Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'PK3', written over a horizontal line.

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